



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,792	03/23/2001	George Harry Hoffman	41556/04014 (RS11P026)	5604
22428	7590	07/27/2005	EXAMINER	
FOLEY AND LARDNER SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			ZEENDER, FLORIAN M	
			ART UNIT	PAPER NUMBER
			3627	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/815,792

Applicant(s)

HOFFMAN, GEORGE HARRY

Examiner

F. Ryan Zeender

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/10/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/10/05; 3/18/05; 11/02/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 25-39 are objected to because of the following informalities: In each independent claim, paragraph "a", it appears "masters contracts" should be changed to --master contracts--. In each independent claim, paragraph "a", it appears the terminology, "at least contract terms" should be changed to --at least one contract term-. Appropriate correction/clarification is required.

Claim Rejections - 35 USC § 103

Claims 25-33, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's own prior art (see for example the Stephanie Stahl article in INFORMATIONWEEK and applicant's IDS submitted 12/17/2004 in related application 10/855,877) in view of "e-Commerce Solutions for Supply Chain Management: A Comparative Review", and Garg '407.

Applicant's own prior art teach the limitations of the claims except for use in an electronic and network environment, collecting a plurality of variables including at least historical performance of promotion products and a negative sales relationship of at least one non-promotion product relative to the promotion product, generating a forecast of sales for the non-promotion product, and current competitor activity.

"e-Commerce Solutions for Supply Chain Management: A Comparative Review" teaches an electronic supply chain management system usable with the Internet.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Applicant's own prior art to make the system electronic and within a

network environment, as taught by "e-Commerce Solutions for Supply Chain Management: A Comparative Review", in order to "improve the performance of the supply chain" (See page 1, "Abstract" of the study).

Garg teaches that it is well known in the art of forecasting to collect information relating to a plurality of variables including historical performance of promotion products (see for example Col. 1, lines 25-28), the impact of pricing and promotions, and current competitor activity (see for example Col. 2, lines 61-63, Col. 3, lines 1-10, and Col. 3, lines 21-26).

It would have been an obvious to one of ordinary skill in the art at the time of the invention to: collect a plurality of variables including at least historical performance of promotion products, determine the impact of promotions and current competitor activity and thereby generate forecasts, in view of Garg; in order evaluate competitive effects of promotions on market shares (see Garg Col. 1, lines 25-26, and Col. 3, lines 2-10) and to define operations and strategies of the competition to determine accurate forecasts (see Garg Col. 3, lines 21-23).

Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's own prior art (see for example the Stephanie Stahl article in INFORMATIONWEEK and applicant's IDS submitted 12/17/2004 in related application 10/855,877), "e-Commerce Solutions for Supply Chain Management: A Comparative Review", and Garg '407 as applied to claims 25-27 above, and further in view of Macartney-Filgate et al. '126.

Applicant's own prior art (see for example the Stephanie Stahl article in INFORMATIONWEEK and applicant's IDS submitted 12/17/2004 in related application 10/855,877), "e-Commerce Solutions for Supply Chain Management: A Comparative Review", and Garg '407 lack the specific teaching of using a calendar of events at least in part for the promotion.

Macartney-Filgate et al. teach that is well known in the art of marketing to collect information relating to a marketing calendar (See for example paragraph 0029).

It would have been obvious to one of ordinary skill in the art to modify applicant's own prior art (see for example the Stephanie Stahl article in INFORMATIONWEEK and applicant's IDS submitted 12/17/2004 in related application 10/855,877), "e-Commerce Solutions for Supply Chain Management: A Comparative Review", and Garg '407 to include utilize a calendar of events at least in part for the promotion, in view of Macartney-Filgate, in order to provide marketing for a designated period (i.e., until "specified events" occur; See Macartney-Filgate, paragraph 0029).

Response to Arguments

Applicant's arguments with respect to all pending claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3627

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (571) 272-6790. The examiner can normally be reached on Monday-Friday, 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached at (571) 272-6771. The receptionist's phone number for the Technology center is (571) 272-3600.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

F. Zeender
Primary Examiner, A.U. 3627
July 20, 2005


F. RYAN ZEENDER
PRIMARY EXAMINER

7/20/05